

U.S. ENVIRONMENTAL PROTECTION AGENCY
CAFO PUBLIC MEETING—BOISE, IDAHO
MARCH 29, 2001, 1:00 TO 5:00 PM

On December 15, 2000, former U.S. Environmental Protection Agency (EPA) Administrator Carol Browner signed proposed revisions to the National Pollutant Discharge Elimination System (NPDES) Permit Regulations and the Effluent Limitation Guidelines and Standards (ELG) for Concentrated Animal Feeding Operations (CAFOs). The proposed revisions revise and update the two regulations that address impacts on water quality from manure and process waters generated by CAFOs. EPA published these proposed revisions in the *Federal Register* on January 12, 2001, at 66 FR 2959.

EPA held eight public information meetings in different cities across the country. The purpose of these meetings was to enhance public understanding of the proposed changes to regulations for CAFOs. At each meeting, EPA presented an overview of the proposed regulations and responded to questions and requests for clarification from attendees.

These informational meetings were not part of the public comment process. Any comments that citizens or groups wish EPA to consider as part of the rulemaking process must be submitted in accordance with the requirements specified in preamble to the proposed rule. The public comment period extends until July 30, 2001. In Boise, Jeff Lape and Karen Metchis from the Office of Wastewater Management, and Paul Shriner from the Office of Science and Technology presented the overview of the proposed CAFO rule revisions.

The summary below is an overview of statements made by the public participants at the informational meeting. These notes are not intended to be a verbatim transcript or a comprehensive record of the meeting; rather, they are intended to identify the participants at this meeting, the issues of concern, and the general nature of the questions asked and the answers provided. The summary is organized by order of questioner.

MEETING SUMMARY

Presenters: Jeff Lape, Acting Director, Water Permits Division, Office of Water, USEPA; Karen Metchis, Office of Wastewater Management, Office of Water, USEPA; Paul Shriner, Office of Science and Technology, Office of Water, USEPA

Moderator: James Werntz, Director, Idaho Operations Office, USEPA

Panelists: Jeff Lape, Karen Metchis, Paul Shriner, Warren McFall (Idaho Operations Office, USEPA), Bub Loiselle (USEPA Region 10), David Allnut (USEPA Region 10)

Approximate number of public participants: 130

Attendees: Meeting attendees were predominantly beef and dairy producers. There were also state representatives from Idaho and Washington. Attendees represented California, Colorado, Idaho, Montana, Oregon, Utah, and Washington.

Meeting Opened: 1:10 PM

Questioning Began: 2:00 PM

Meeting Adjourned: 5:30 PM

SUMMARY OF QUESTIONS AND ANSWERS
(By order of questioner)

The following are notes of this proceeding. EPA does not have a verbatim transcript of the proceeding.

1. Patrick A. Takasugi, Director, Idaho Department of Agriculture

Remarks: Mr. Takasugi complimented EPA on listening, clarifying the proposal, reworking the draft, and partnering with Idaho on Memorandums of Understanding (MOUs) for beef and dairy sectors. He expressed concern regarding the Agency's intent not being accurately captured in written regulatory language, the potential danger of inaccurate assumptions used in the rule, use of an inflexible one-size-fits-all approach, and the potential conflict with Idaho's successful state program.

Idaho has established MOUs with EPA for the dairy and beef sectors. Idaho leads the country in dairy production. Every dairy is in compliance with the Clean Water Act (CWA) and 2.5 inspections per dairy per year (900 operations) are accomplished in Idaho. Noncompliance has decreased more than 70 percent. Key signatories include industry and all levels of government. Key elements of the dairy MOU include compliance assistance, flexibility on the part of EPA, a single regulatory agency responsible for oversight, and coverage of ground water.

A beef MOU similar to the dairy MOU will be implemented over the next 5 years. The goal is compliance for 700 beef operations in 5 years. This MOU can serve as a model for the West. Idaho hopes this proposal does not interfere with state efforts, and will let states perform the way Idaho has.

2. Greg Garatia, feedlot operator

Q: The state has made great efforts to consolidate the regulations applicable to CAFOs. Will the proposed rule jeopardize this work?

A: EPA recognizes the effort the state and stakeholders have made in developing the dairy and beef MOUs and will try to honor these efforts.

Q: Does EPA understand that the proposed rule will increase costs for smaller operations, thereby resulting in greater consolidation within the industry?

A: It is not EPA's intent to encourage consolidation. Please comment on how EPA can encourage a balance in operations. The proposed rule includes many options.

Q: Are operations that keep animals in areas where there is no growth in the winter and that are not considered pasture or rangeland subject to the proposed rule?

A: EPA did not intend to broadly subject all wintering operations to the proposed rule; rather, the Agency was trying to clarify existing language. Animals that are on range or pasture land and are unconfined are not subject to the proposed rule, whether it is winter or not. However, some operations may bring their animals into a confined area during the winter. If they are confined for 45 days and otherwise meet the criteria for being a confined facility, they may meet the existing definition for what is an AFO, and therefore could potentially be a CAFO. There are some gray areas that EPA is still exploring, however, such as for animals feeding on field stubble in a confined area.

3. Troy Downing, Oregon State University

Q: By requiring CAFOs to obtain a permit but not allowing a discharge, isn't the Agency treating CAFOs as both point and non-point sources at the same time, and placing CAFOs in a difficult situation?

A: The Clean Water Act (CWA) states that CAFOs are point sources, and EPA has the authority to define which operations are CAFOs that must have a permit.

Q: Are there other industry sectors that are subject to a no-discharge standard?

A: Yes, three or four (e.g., offshore oil and gas, wood treaters, paint manufacturing, plaster).

Q: Does the CWA exempt non-point sources from public comment?

A: Yes, non-point sources are not subject to a NPDES permit and the associated public participation requirements.

4. Lewis Eilers, Executive Director, Idaho Dairy Association

Q: The requirement for an operation to certify that it is not discharging pollutants to ground water that has a hydrologic connection to surface waters forces producers to prove that we are not polluting through a complex and economically burdensome procedure. Implementing a nutrient management plan (NMP) and using best engineering standards should be sufficient. (We are monitoring wells now.)

A: Please send written comment on the kinds of engineering practices that you envision.

Q: Is runoff from land application areas covered under the storm water regulations?

A: CAFOs that are subject to effluent guidelines, as well as those that have been individually designated, are subject to the storm water permit regulations. The permit would address both the production area and the land application area. Under the proposal, the permit would include a Permit Nutrient Plan (PNP), which would ensure that all manure is land applied for agricultural purposes, and therefore any runoff would be considered agricultural storm water.

Q: Does EPA recognize that NMPs may contain proprietary information? State efforts should be allowed to work and water quality results are key.

A: Some information in the NMP may be accessible to the public upon request through the permitting agency. Pollutant information cannot be considered confidential. Other information is subject to EPA's rules for confidential business information (CBI). Further, the CWA requires a certain degree of public participation in the NPDES program, and EPA is trying to balance CWA requirements with operators' concerns.

5. Ted Hoffman, Idaho cattle rancher

Q: The proposed rule implies that the current regulations are not working. Simply imposing fines will not work. Incentives for voluntary compliance are key. In addition, watersheds must be viewed holistically. The focus should be on those that do not comply. EPA should offer technical assistance and education, as well as incentives for operations to act as good stewards. The proposed rule risks harm to the food, jobs, and tax dollars we generate through the use of a reusable renewable resource.

A: EPA agrees that voluntary and incentive-based programs are important, as well as that a watershed or holistic approach is desirable. EPA is actively working to promote watershed-based improvements in water quality. Please help us identify incentives that will work. EPA's traditional approach is regulatory, but the

state uses some voluntary and incentive-based programs. EPA believes that a mix of regulatory and voluntary programs is desirable. Finally, the administration is looking to move beyond a command and control approach to a more innovative, results-oriented approach.

6. Joel Packham, University of Idaho

Q: Winter feeding on frozen ground where animals are confined on meadow areas (forage harvested) sounds regulated.

A: There are several different types of winter feeding operations. Pasture-based winter feeding is not covered (for example, a snow covered pasture where hay bales are set out for feeding). EPA did not intend to cover pasture or range land. However, animals that are confined during the winter could be covered if they otherwise meet the definition of a confinement facility. Rotational grazing is not likely to be covered, but EPA does need to work out the kinds of situations where animals are confined in an area for grazing on field stubble. EPA requests comment on how to craft this part of the animal feeding operation (AFO) and CAFO definition.

7. Jim Krahn, Oregon Dairy Farmers Association

Q: Why does the proposed rule require a 100-foot setback when it requires application at an agronomic rate? Also, why does the rule allow commercial fertilizer to be applied on the setback area but not manure?

A: EPA agrees that site-specific conditions can vary. EPA was attempting to promote good management practices while providing some flexibility. Several options were discussed in the preamble. If better practices are available, tell EPA and EPA will consider them. However, a setback could help to reduce other pollutants besides nutrients, such as pathogens.

8. Mike Webster, Idaho Cattlemen's Association

Q: Given that Idaho National Engineering and Environmental Laboratory (INEEL) tried for 20 years to determine sources of water pollution, the requirement that producers prove their innocence (i.e., no hydrologic connection from ground water to surface water) is unreasonable.

A: Case studies (e.g., INEEL) are helpful. EPA is also considering other approaches (e.g., states determine vulnerable areas). EPA will consider the public comments and information received and, in the final rulemaking, will explain the rationale for how ground water issues will be treated in the final regulations.

9. Dave Nelson, President, Idaho Cattle Association

Q: Regulating winter feeding of cattle on stubble that is on frozen or near frozen ground is very costly. It is not clear whether these activities are regulated or not.

A: EPA did not intend to subject all wintering operations to the proposed rule. Winter feeding in a pasture or on rangeland is not covered by the proposed rule. EPA's intent was that the proposed rule apply only to true confinement operations. The issue of grazing on field stubble is a gray area that EPA would like your comment on.

Q: How does EPA define "waters of the United States?"

A: "Waters of the United States" are defined quite broadly in the existing NPDES regulations to include tidal and traditional navigable waters, interstate waters, tributaries to and impoundments of all such waters, and wetlands adjacent to all of the above. Such waters can be perennial or intermittent. The term also cover some other waters whose use, degradation, or destruction could affect interstate or foreign commerce.

10. Mark Peterson, Utah Farm Bureau

Q: Like Idaho, Utah has a CAFO program too. Utah has partnered with producers and others to develop a strategy that relies on a voluntary, incentive-based approach except for very large operations or bad actors. The state would like to implement this strategy and asks why the regulation looks so different from the *U.S. Department of Agriculture (USDA)–EPA Unified National Strategy for AFOs* that preceded it. The two-tier criteria would destroy Utah’s program. Will EPA reconsider?

A: EPA has been working with the head of Utah’s Water Programs. Please discuss the kinds of conditions and criteria that would be reasonable for the middle tier when you submit comments.

Q: Most water quality programs are focusing on impaired waters. Why does the proposed rule simply focus on AFOs? What is the problem?

A: Total maximum daily loads (TMDLs) only address impaired waters. However, the NPDES program addresses point-source discharges of pollutants from all sources.

Q: Why is manure being treated as a toxic waste? It is not a waste, but a natural resource. Where is it stated that heavy metals are in manure?

A: Manure is a “pollutant” under the CWA and it can have significant adverse effects on water quality. EPA is seeking to recognize both the resource value of the manure when used properly and the environmentally harmful effects it can cause when not properly managed, and to balance these concerns in the regulations. The proposal does not seek to impose Resource Conservation and Recovery Act (RCRA)-type hazardous waste controls on manure due to the presence of any heavy metals.

Q: Regulating the land application of manure is regulation of a non-point source. An incentive-based approach would be best. If EPA would provide funding, the states could address any CAFO-related water quality problems.

A: EPA is interested in your suggestions on how to provide incentives.

Q: The NMPs will cost a lot and no one will want to obtain a certified plan because of the cost of doing so.

A: EPA is working with USDA to develop a certification program and believes that sufficient USDANatural Resource Conservation Service (NRCS) staff and third parties will be available to certify plans. EPA understands that the infrastructure must support the program requirements, and the Agency is working to make sure the needed programs are in place.

11. Vern France, livestock feeding business

Q: I am surprised at the limited scope of the comments and questions being offered. These regulations have great potential to economically impact and interfere with my operation. I believe we are at zero discharge now; the 100-foot setback will just further intrude on my operation and is not justified based on metals (especially given that commercial fertilizers may be applied within the setback). The cost of compliance will be \$75,000 to \$90,000 per year, and I cannot afford the expense.

A: The average concentration of metals in manure indicates levels of concern. Other concerns include antibiotics, hormones, and other pollutants.

Q: The co-permit provisions appear unnecessary and impossible to implement. In addition, we hear EPA saying it did not intend to regulate certain practices but we need to see these issues corrected in the written regulations. There are many serious issues that are unclear or problematic. The current rules are not

enforced, which is a poor reason for new rules. We are working to improve and clarify the proposal on co-permitting.

A: [No answer.]

12. Art Butler, rancher

Q: We have a spring on our land but do not discharge to natural waters. (We have 300 to 400 cattle.) We have a sediment pond and a large irrigation pond, as well as wetlands and a clover field. The closest stream is listed on the 303(d) list. EPA needs to look at the whole picture. We are protecting the resource. We could improve our operation if there were some form of cost-sharing, but without it, we cannot afford to do much more.

A: Thank you.

Q: Is our corn field, which may get beat down to bare ground, covered? It should not be considered a CAFO should it?

A: The issue of winter feeding has been discussed previously. No new answer.

13. Fred Colvin, Washington Dairy Federation

Q: Washington State has enacted a Dairy Nutrient Management Act, which requires that dairies register and develop an NMP. This will be effective, but it must be given a chance to work. We do not want new rules that will require the state and producers to start over. States have invested a lot in updating their existing programs.

A: [No answer.]

Q: Requirements should be based on site-specific considerations, not dictated by a national rule.

A: [No answer.]

Q: Why did EPA remove the 25-year, 24-hour storm provision? Producers use this specification as a building standard.

A: This provision appears twice in EPA's existing regulations. EPA proposes to eliminate the permit exemption from the CAFO definition, but it is also a design specification in the ELG. If a beef or dairy facility is designed to contain process wastewater and runoff from the 25-year, 24-hour storm event, but has a discharge, the discharge is allowable. EPA is proposing to eliminate this ELG specification for swine, poultry, and veal because most of these kinds of facilities are indoors and can achieve a zero discharge.

14. Paul Eke, Idaho cattleman

Q: The winter grazing issue is confusing. The terrain in northern Idaho is steep. My operation has under 300 head and is located on a meadow with hay fields. The cattle feed along a creek and have access to 500 acres on hillsides. The cattle drink from the creek. We ask for flexibility and common sense in the proposal to address the various situations cattle ranchers encounter.

A: EPA will work to clarify the rule regarding winter feeding. Given the access to pasture, your operation sounds like a grazing operation, not a CAFO.

15. Dan Danas, Magic Valley Cattle Association

Q: We oppose the rules because they are very expensive and burdensome. The rules have many implications that are not well understood. Given the economics of the cattle industry, these rules impose a high burden and low benefit. Manure is reused beneficially; these rules would inhibit such reuse. This would devastate us.

A: [No answer.]

Q: If I am a non-point source located in a 303(d) listed stream, must I get a permit?

A: No, only point sources (i.e., CAFOs) must hold an NPDES permit. Non-point sources generally use best management practices or management plans to improve water quality.

16. Dale Buck, retired dairy farmer in Oregon

Q: Why is the proposed rule so long and complex?

A: EPA is required under the Administrative Procedures Act (APA) to publish a proposed rule and to document the basis for all decisions. Other laws and executive orders require additional analyses. The actual proposed regulations are not lengthy; most of what EPA published is the “preamble,” in which EPA discusses at length our analysis of the data and the rationale for the various regulatory approaches EPA is proposing.

Q: How does the Total Maximum Daily Load (TMDL) process (1100 in Oregon) affect the proposed rule?

A: TMDL development and implementation will continue. States list impaired waters and develop maximum acceptable loadings for these waters. These loadings are allocated to point and non-point sources, which implement them using either a permit, BMPs or management plans to improve water quality.

Q: First the Clean Water Action Plan (CWAP), then the *USDA–EPA Unified National Strategy for AFOs* (a good document), and now this rule. Why all of these one after another?

A: The *USDA–EPA Unified National Strategy for AFOs* was developed in response to the CWAP with a focus on how to address the issues posed by CAFOs. The proposed rule reflects tasks identified in both the CWAP and *USDA–EPA Unified National Strategy for AFOs*.

Q: USDA wrote a letter to EPA indicating it disagreed with the TMDL rule.

A: Administrators Whitman and Venemen have met several times and have agreed to work together closely.

Q: How does EPA define “no potential to discharge?”

A: EPA believes that CAFOs generally have a potential to discharge from their production area and their land application areas. CAFO owners or operators may attempt to demonstrate to the permit authority that their facility and manure management can assure no discharge, and thereby avoid obtaining a permit. However, any subsequent discharge would be an unpermitted discharge.

Q: The 100-foot setback will significantly reduce the land available for land application of manure (I will lose 1 acre for every 218 linear foot of setback). This will put us out of business. Standards for fecal waste apply now. Geese have high fecal waste.

A: These decisions will be made by the EPA administrator. Your time making comments on the proposed rule will not be wasted time. Please provide example language in your comments. EPA will consider all comments.

Q: What does EPA mean when it says the rule provides flexibility to states?

A: EPA has talked with many states, including Utah and Idaho, and recognizes the MOUs that have been established in these states. EPA believes that the proposal offers some options that provide flexibility, such as the three-tier option, along with certain waivers where states have good programs for excess manure. EPA wants to balance regulatory and nonregulatory programs, and comments are welcome.

Q: Were the comments made at other meetings similar to those we are hearing today?

A: Certain themes have been consistent throughout the meetings. Co-permitting, discharge to ground water, scope, state flexibility, and winter feeding all are issues EPA has heard at numerous meetings.

17. Harry Hoogland, United Dairymen of Idaho

Q: What does EPA mean by immature dairy cattle apart from the dairy? Is a second plan required?

A: The trend for larger dairies is to separate nonproducing cows off-site. For example, heifer operations off-site are often confined. These separate sites may need a permit if they exceed the relevant thresholds in the proposed rule.

Q: If I have a permit, and I have a PNP in place, and there is a discharge from land application, will a fine result?

A: If the PNP is properly done, any discharge from land application would be considered agricultural storm water. The PNP must be reviewed annually and amended whenever practices are significantly changed.

Q: Operators are getting mixed messages about how to proceed. NPDES permits exist, the MOU exists, and the non-point source program exists, and now the NMP. Are there advantages to obtaining a permit?

A: With a permit, your legal obligations are made clear; in general, no one can claim that you have violated any CWA regulations beyond what is contained in the permit. Also, there are certain “relief valves” in a permit that are not available to unpermitted operations. For example, under the proposal, permits for some CAFOs would continue to allow (as they do now) an overflow due to rainfall as long as the containment facility has been properly designed and operated as specified in the regulations. A permitted facility is also excused from certain discharges that are due to circumstances beyond their control.

18. Sam Cnossen, dairy farmer in Idaho

Q: I have worked on developing an NMP for several years, and the state has too. EPA should not mess up this work or render it obsolete. Also, why the 100-foot setback if you can apply fertilizer within the setback area?

A: EPA has considered a range of options, including the use of buffers, but were uncomfortable taking land from production. Therefore, a setback was proposed. There may be nutrients in the runoff due to fertilizer application in the setback area, but there should be less pathogens and metals than from manure. EPA welcomes your comments on this.

19. Jay Gordon, Washington State Dairy Federation

Q: The proposed approach is not sufficiently site-specific. For example, it fails to address frozen ground in a workable manner. We operate in a dry basin, so application on frozen ground is not a problem. In addition, the requirements for the PNP are too much (e.g., count the rainfall). NRCS has worked with the state, and EPA should defer to NRCS. Allow the states to fill in the blanks. Also, we cannot determine the number of operations that must be permitted for purposes of budgeting.

A: The proposal would not directly prohibit application on frozen ground, but instead would allow the state to decide what is appropriate to ensure protection of water quality. Please submit written comments on aspects of the PNP that you believe are too burdensome.

Q: What requires public notification and why?

A: Public participation in the permitting process is required under the law. Permit information, including data on effluent discharges, must be publically available (per CWA). EPA understands there are concerns about confidentiality. Under the proposal, the permit nutrient plans would be kept at the CAFO and could be requested through the permit authority, although EPA also discusses alternative options. Please read the section of the preamble that discusses whether and how EPA is proposing to treat certain information as confidential. EPA welcomes comments on what should be deemed confidential in your view and why.

Q: EPA says all 13,000 operations should be up to speed and in compliance (page 271). EPA's cost- to-benefits ratio is way out of whack (\$4 costs to every \$1 benefits, page 309). For a 1,000-head cow operation, my compliance costs would be \$450,000.

A: Of the 13,000 facilities with more than 1,000 animal units (AU), 2,500 currently have a permit. While many of these facilities do not have a permit, to calculate the costs of the new regulations, EPA assumed that the unpermitted facilities with more than 1,000 AU are already in compliance with the existing regulations. Note that the benefits listed are only those that are monetized. There are significant nonmonetized benefits as well (listed benefits are understated). The number of facilities to be permitted is based on USDA National Agricultural Statistics Service data. In Washington state, EPA estimated that there are about 350 facilities under the two-tier structure and 500 facilities under the three-tier structure.

20. Viki Purdy, Dairy Farmer

Q: EPA has a rapid infiltration basin next to my farm (in the Eagle sewer district). I am the only owner/operator left on the canal in my city. There is a lot of pressure to be a perfect operator, but the public has no idea about the industry. These regulations are for larger dairies. So many regulations are causing small farmers to go out of business. Leave us alone. Do you prefer houses or farms? Which is best for the environment? We are just as efficient as a big operator.

A: EPA's focus is on protecting water quality. EPA regulates CAFOs and municipalities to the extent they affect water quality. It is highly unlikely that you will be subject to this rule, because of your small size. Yet, EPA understands that there is pressure on many fronts against small farms.

21. Cevin Jones, Idaho Cattle Association

Q: I have a 10,000 head operation. Will I have to obtain an individual or general permit?

A: EPA is not requiring the use of individual permits and assume general permits will be used in most cases. EPA is requiring that states conduct a public process to decide whether there should be criteria for requiring certain facilities to obtain an individual permit (e.g., very large CAFOs). The existing Idaho general permit has no size cutoff.

Q: How will EPA and the states cope with the increased number of permits, when they do not turn permits around very quickly now?

A: States can make coverage under general permits automatic upon submission of a Notice of Intent (NOI). EPA expects that most CAFOs will be covered under general permits. For individual permits, the backlog has been reduced.

22. Gerrard Grandi, rancher in Idaho

Q: The rules make it harder to stay in business. There are too many regulations. Businesses will move to other areas where there is no environmental protection. Consider the effect of the rules on American businesses.

A: [No answer.]

23. Bill Hasbrough, Southwest Basin Advisory Group

Q: What is the average cost of a NPDES permit? If a spill occurs, will EPA use common sense in assessing responsibility? Hidden taxes and fees are killing small operators. A great deal of money is spent for municipal treatment; will some funding be made available to small producers?

A: There is no fee to apply for a permit; costs are to prepare a PNP and implement the permit. EPA makes a variety of funding available to support the protection of water quality, and will continue working with USDA to identify funding opportunities for CAFOs.

24. Dan Danas, Magic Valley Cattle Association

Q: Does the rule define *chronic* or *accumulated storm event*?

A: The Idaho general permit requires design to contain the 25-year, 24-hour storm event and requires a certain storage capacity. Discharges from beef and dairy facilities that exceed this specification are authorized. The proposed rule does not refer to the chronic storm, but provides a design specification.

25. Marvin Mears, EPTC

Q: Are all discharges prohibited?

A: No, where the proper design specification is in place and the CAFO is operated properly, some discharges are allowed. Further, for circumstances beyond the permittee's control, there are upset and bypass provisions.

Q: What aspects of the rule allow a state to be innovative? Is the NPDES process a good thing?

A: The Agency relies on the states to implement the NPDES program. The NPDES program requires general consistency, but allows for a reasonable degree of flexibility as well. EPA is supporting the dairy and swine MOU.

26. Lloyd Knight, Idaho Cattle Association

Q: We have heard certain themes today. Now, EPA should contact us to get help developing answers for specific questions. Farmers can help clarify issues better verbally. Farmers have difficulty articulating in writing. These rules have a real impact on our lives and in our communities. It is still not clear how they apply. We appreciate EPA's dialog with us.

A: [No answer.]

27. Eric Moeggenberg, CAFO Inspector, Oregon Department of Agriculture

Q: How is off-site transfer of manure defined? Regulated off-site transfer could be detrimental (most transfers are now done with a handshake).

A: EPA has co-proposed two options, one to require a written certification and the other to just keep a record of the transfer. Please comment. The CAFO regulations themselves would not require third parties to obtain a permit or PNP. However, third parties might otherwise need a permit or NMP since they could be subject to CWA enforcement if over-application caused the discharge of pollutants from a point source. The general storm water regulations would also need to be consulted on this issue. In neither case would the CAFO operator be responsible for the off-site recipient's actions.